

VIRGINIA:

**IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND
JOHN MARSHALL COURTS BUILDING**

COMMONWEALTH OF VIRGINIA,)	
)	12-F-3791 and 12-F-3901
V.)	
)	Honorable W. R. Marchant
DEUNTE HUMPHRIES,)	
)	

ORDER

THIS MATTER came before the Court on Commonwealth's Motion to Vacate Deunte Humphries' convictions in the above-styled matters. The Commonwealth asserted, as a basis for the motion, that there was clear and convincing evidence of extrinsic fraud in the above-styled matter. The Defendant appeared in person and was represented by counsel, Jeffrey Everhart. The Commonwealth was represented by Assistant Commonwealth's Attorney Patrick W. Dorgan.

The Defendant was convicted on September 28, 2012 of possession with intent to distribute cocaine and possession with intent to distribute oxycodone. The Commonwealth filed its motion, with agreement of counsel, on July 6, 2015, which is outside the time limit set forth in Rule 1:1. The Commonwealth asserted that extrinsic fraud provides this Court with jurisdiction to entertain the motion. *Rook v. Rook*, 233 Va. 92, 95, 353 S.E. 2d 756, 757 (1987). During the hearing, the Commonwealth, without objection, submitted evidence and proffered facts upon which it concluded that extrinsic evidence had been committed in this matter that justified vacating the aforesaid convictions.

It appearing proper and appropriate to do so, the Court having heard the evidence in this matter, finds that the written motion, submitted exhibit and proffer of facts establishes by clear and convincing evidence that extrinsic fraud did occur and that such fraud renders the aforesaid convictions void. Having found the convictions void, the Court HEREBY GRANTS the Commonwealth's Motion to vacate the September 28, 2012 convictions in Richmond Circuit Court

EXHIBIT

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case numbers 12-F-3791 and 12-F-3901. *See, e.g., Peet v. Peet*, 16 Va. App. 323, 429 S.E.2d 487 (1993). Accordingly, the judgment entered on September 28, 2012 is VACATED.

Further, the Court GRANTS, for good cause shown, the Commonwealth's motion to *nolle prosequi* the indictments in Richmond Circuit Court case numbers 12-F-3791 and 12-F-3901.

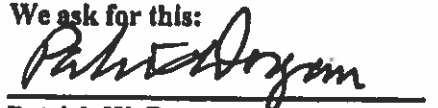
The Clerk is DIRECTED to forward a certified copy of this Order to the Defendant, Counsel for the Defendant, Commonwealth Attorney, Department of Corrections, District One Probation and Parole and Virginia State Police.


It is so ORDERED.


The Honorable W. R. Marchant

Entered: 8/13/2015

We ask for this:


Patrick W. Dorgan,
Assistant Commonwealth Attorney

A Copy
Teste: EDWARD F. JEWETT, CLERK
BY:  D.C.


Jeffrey Everhart,
Counsel for Defendant